

AMEX ASSURANCE COMPANY

**227 West Monroe Street, Suite 3600
Chicago, Illinois 60606**

NAIC COMPANY CODE 27928

**MARKET CONDUCT EXAMINATION REPORT
as of December 31, 2003**

**PREPARED BY INDEPENDENT CONTRACTORS FOR THE
COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

AMEX ASSURANCE COMPANY
227 West Monroe Street, Suite 3600
Chicago, Illinois 60606

**MARKET CONDUCT
EXAMINATION REPORT**
as of
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Prepared by

James T. Axman, CIE

Frederick T. Verny, Jr., AIE, FLMI

Independent Contract Examiners

July 8, 2004

The Honorable Doug Dean
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Dean:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, rating, and claims practices of AMEX Assurance Company's private passenger automobile business, has been conducted. The Company's records were examined at its Regional office, 3500 Packerland Drive, DePere, Wisconsin. 54115.

The examination covered a one-year period from January 1, 2003 to December 31, 2003.

A report of the examination of AMEX Assurance Company is, herewith, respectfully submitted.

James T. Axman, CIE

Frederick T. Verny, Jr., AIE, FLMI

Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF THE
AMEX ASSURANCE COMPANY**

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COMPANY PROFILE

AMEX Assurance Company was incorporated as Chubb Insurance Company of Illinois under the laws of Illinois on January 30, 1973, and commenced business on February 5, 1973. The name was changed to American Automobile Insurance Company of Illinois on August 15, 1979. The present title, AMEX Assurance Company, was adopted in 1986.

Stock ownership was transferred to American Express Company on May 31, 1995. Holdings Co. Inc. previously held stock ownership, a downstream holding company of American Express Travel Related Services Company, Inc., a subsidiary of American Express Company.

The Company was licensed with a multi-lines certificate of authority in Colorado June 30, 1980 and began writing personal lines auto, home and umbrella business September 5, 1995. It is also licensed to sell accident and health, fidelity and surety, general casualty, credit, and general property including crop.

The Company is licensed to sell products in thirty-seven (37) additional states: Alabama, Arkansas, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington and Wisconsin.

*As of the calendar year 2003 the Company had reported premium in Colorado of \$9,906,000 for Private Passenger Automobile Insurance, representing a 0.34 % market share in Colorado.

*Data as reported in the 2003 Colorado Insurance Industry Statistical report.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law §10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to Private Passenger Automobile insurance. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered a twelve (12) month period of the Company's operations, from January 1, 2003 to December 31, 2003.

File sampling was based on a review of underwriting and claims files that were systematically selected by using ACL™ software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to Colorado insurance law. The examination included review of the following:

1. Company Operations and Management
2. Underwriting
3. Rating
4. Claims Practices

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's Private Passenger Automobile underwriting, rating, and claims practices to determine compliance with Colorado insurance laws as outlined in Exhibit 1.

Exhibit 1

Law	Subject
Section 10-1-128	Fraudulent Insurance Acts.
Section 10-4-413	Records required to be maintained
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-626	Prohibited reasons for nonrenewal or refusal to write auto
Section 10-4-627	Discriminatory standards-proof of financial responsibility
Section 10-4-628	Refusal to write – changes in – cancellation-nonrenewal prohibited
Section 10-4-629	Cancellation-renewal-reclassification
Section 10-4-630	Exclusion of named driver
Section 10-4-632	Reduction in rates for drivers aged 55 or older with drivers education
Section 10-4-633	Certification of policy and notice forms
Section 10-4-706.	Required coverages - complying policies - PIP examination program.
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.
Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Inter-company arbitration.
Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of auton insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.

Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course - legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8	Penalties And Timelines Concerning Division Inquiries And Document Requests
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Insurance Scores
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Amended Auto Accident Reparations Act (No Fault) Rules and Regulations
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 5-2-11	Transition from No-Fault Auto to Tort System.
Regulation 5-2-12	Automobile Insurance Consumer Protections.
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.

Company Operations/Management

The examiners reviewed Company management, implementation, and quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

Complaints

The examiners reviewed the complaint database log maintained by the Division of Insurance as a general guideline to determine complaint activity for the period under examination.

Contract Forms and Endorsements

The following Private Passenger Automobile forms and endorsements were filed for certification with the Colorado Division of Insurance on July 16, 2003: These forms were also reviewed to determine compliance with Colorado law.

Title	Form
Auto Coverage and Policy summary disclosure	Aico02a-c (07/03)
Good Student Certificate	A10020
Notice of Premium Increase or Reduced Coverage	CO-23106 (3/94)
Colorado Driver Exclusion Endorsement	23097 (1/94)
Selection/Rejection of Uninsured/Underinsured Motorists Bodily Injury Coverage Form	Afco02 (04/03)
Selection/Rejection of Uninsured/Underinsured Motorists Bodily Injury Coverage Internet Form	Afco02 (04/03)
Your Safety Pays Car Policy-Colorado	23178 (07/03)
“Safety Pays” Auto Insurance Application	Apgn01a GNAPCO02b (p.2)
“Safety Pays” Auto Insurance Application Internet	Iapgn01a GN
Cancellation Notice	CO-23109 (07/95)
Cancellation Notice	CO-23108 (03/94)
Non-Renewal Notice	CO-23181 (03/94)
Declarations Page	Adco02 (05/03)
Colorado Auto Insurance Identification Card	Idc01a
Colorado Private Passenger Automobile Consent Form For the Transition of No-Fault to Tort	Afco04 (07/03)

In-force Business /Cancellations/Non-renewals/Surcharges/PIP Conversion

For the period under examination, systematically selected samples were taken as follows:

Review Lists	Population	Sample Size	Percentage to Population
In-Force Business	5618	100	.018%
Cancellations	153	50	.32%
Nonrenewals	46	46	100%
Surcharges	1136	50	.044%
PIP Conversion	2840	50	.017%

Rating

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to the Colorado Division of Insurance for the period under examination. This information was compared against a sample of in-force policies, rated by coverage selection, to determine compliance with filed base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

Claims

For the period under examination, the examiners systematically selected the following samples to determine compliance with claims handling practices and manual rules:

Review Lists	Population	Sample Size	Percentage to Population
Claims Paid	796	50	.062%
Claims Paid - PIP	116	50	.043%
Claims Not Paid - CWP	1144	50	.044%

EXAMINATION REPORT SUMMARY

The examination resulted in four (4) issues arising from the Company's apparent failure to comply with Colorado insurance laws that govern all property and casualty insurers operating in Colorado. These issues involved the following categories:

Company Operations and Management:

In the area of company operations and management, one (1) compliance issue is addressed in this report: The issue in this phase is identified as follows:

- **Improper certification of a cancellation and non-renewal form used by the Company.**

It is recommended that the Company review its company operations practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations.

Underwriting:

In the area of underwriting, two (2) issues are addressed in this report. Issues arise from Colorado insurance law requirements that must be complied with whenever policies are issued, canceled, rejected, non-renewed, or surcharged. The issues in this phase are identified as follows:

- **Failure, in some cases, to provide surcharge notices.**
- **Failure, in some cases, to provide proper notification of a cancelled policy.**

It is recommended that the Company review its underwriting practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as to each issue addressed.

Rating:

In the area of rating, no compliance issues are addressed in this report.

Claim Practices:

In the area of claim practices, one (1) compliance issue is addressed in this report. The issue arose from Colorado insurance law requirements dealing with the fair and equitable settlement of claims, claims handling practices, payment of PIP claim benefits, and the timeliness and accuracy of claim payments. The issue in this phase is identified as follows:

- **Delay, in some cases, in the payment of PIP benefits.**

It is recommended that the Company review its claim handling practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations concerning this issue.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of any previous Market Conduct Exams are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

AMEX ASSURANCE COMPANY

PERTINENT FACTUAL FINDINGS

PERTINENT FACTUAL FINDINGS

COMPANY OPERATIONS

Issue A: Improper certification of a cancellation and non-renewal form used by the Company.

Section 10-4-725(1), C.R.S., Certification of forms, states in part:

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted by July 15, 1993 and not later than July 1 of each subsequent year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any NEW policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one (31) days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

Section 10-4-633. Certification of policy and notice forms. (Effective July 1, 2003)

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted no later than July 1 of each year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium

increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(3) The commissioner shall have the power to examine and investigate insurers authorized to conduct business in Colorado to determine whether automobile policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner comply with the certification of the organization and statutory mandates.

Additionally, Colorado Regulation 1-1-6. Concerning the Elements of Certification for Accident and Health forms, Automobile Private Passenger Forms, and Claims-made Liability Forms, as promulgated under the authority of Section 10-1-109, C.R.S., states in part:

III. Rules

A. Definitions

1. "Annual Report for automobile private passenger insurance" shall mean a list of all automobile private passenger policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of reductions in coverage and any other such forms as requested by the commissioner currently in use and issued or delivered to any policyholder in Colorado, including the titles of the programs or products affected by the forms.

In the review of the forms certification listing filed with the Division of Insurance for the period under examination, and in comparison to those forms being used by the Company in its underwriting operations, it was noted that the Company was using a cancellation and non-renewal form which did not contain the proper form number and edition date. Although the annual forms certification contained entries for a cancellation and non-renewal form, without proper identification in comparison, there was no way to determine certification compliance.

The entries on the annual certification listing relating to this issue were as follows:

- CO-23109(7/95) - Cancellation Notice
- CO-23108(3/94) - Cancellation Notice
- CO-23181(3/94) - Non-renewal Notice

Recommendation # 1:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-725, and 10-4-633, C.R.S., and Colorado Regulation 1-1-6. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has filed a complete annual certification which includes all forms currently being used and has implemented necessary changes in order to ensure future compliance with Colorado insurance law.

PERTINENT FACTUAL FINDINGS

UNDERWRITING

Issue B: Failure, in some cases, to provide surcharge notices.

Section 10-4-629, C.R.S., Cancellation - renewal - reclassification, effective 7/1/03, states, in part:

- (1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

Section 10-4-720, C.R.S., Cancellation-Renewal-reclassification, states, in part:

- (1) Except in accordance with the provisions of this part 7, no insurer shall cancel or fail to renew a policy of insurance which complies with this part 7, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 7.
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:

Colorado Insurance Regulation 1-1-7, promulgated under the authority of Section 10-1-109 provides in part:

B. RECORDS REQUIRED FOR MARKET CONDUCT PURPOSES

1. Every insurer/carrier or related entity licensed to do business in this state shall maintain its books, records, documents and other business records so that the insurer's/carrier's or related entity's claims, rating, underwriting, marketing, complaint, and producer licensing records are readily available to the

commissioner. Unless otherwise stated within this regulation, records shall be maintained for the current calendar year plus two calendar years.

2. A policy record shall be maintained for each policy issued in this state. Policy records shall be maintained for the current policy term, plus two calendar years, unless otherwise contractually required to be retained for a longer period. Provided, however, documents from policy records no longer required to be maintained under this regulation, which are used to rate or underwrite a current policy, must be maintained in the current policy records. Policy records shall be maintained so as to show clearly the policy term, basis for rating and, if terminated, return premium amounts, if any. Policy records need not be segregated from the policy records of other states so long as they are readily available to the commissioner as required under this rule. A separate copy need not be maintained in the individual policy records, provided that any data relating to that policy can be retrieved. Policy records shall include:

- a. the application for each policy, if any;
- b. Declaration pages, endorsements, riders, termination notices, guidelines or manuals associated with or used for the rating or underwriting of the policy. Binder(s) shall be retained if a policy was not issued; and
- c. Other information necessary for reconstruction of the rating and underwriting of the policy.

Records required to be retained by this regulation shall be readily available upon request by the commissioner or a designee. Failure to produce and provide a record within a reasonable time frame shall be deemed a violation of this regulation, unless the insurer or related entity can demonstrate that there is reasonable justification for that delay.

- b. An insurer may exceed the fifteen (15) month period if such renewal is the first opportunity to underwrite an additional insured, i.e., new driver in household. Surcharge or merit rating changes may only be made on the policy renewal date.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Surcharges

Population	Sample Size	Number of Exceptions	Percentage to Sample
1136	50	22	44%

An examination of fifty (50) policies surcharged, representing 4% of those policies surcharged by the Company during the examination period, showed twenty-two (22) exceptions (or 44% of the sample) wherein the Company failed to provide surcharge notices as required by Colorado insurance law.

Recommendation #2:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-629, and 10-4-720, C.R.S., and Colorado Regulation 1-1-7. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed and corrected its guidelines pertaining to providing notification of policy surcharges in order to ensure compliance with Colorado insurance law.

Issue C: Failure, in some cases, to provide proper notification of a cancelled policy.

Section 10-4-629, C.R.S., Cancellation - renewal - reclassification, effective 7/1/03, states, in part:

- (1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

Section 10-4-720, C.R.S., Cancellation-Renewal-reclassification, states, in part:

- (1) Except in accordance with the provisions of this part 7, no insurer shall cancel or fail to renew a policy of insurance which complies with this part 7, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 7.
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Automobile Cancellations

Population	Sample Size	Number of Exceptions	Percentage to Sample
153	50	5	10%

An examination of fifty (50) policies cancelled, representing 32% of those policies cancelled by the Company during the examination period, showed five (5) exceptions (or 10% of the sample) wherein the Company failed to provide notification of cancellation as required by Colorado insurance law.

Recommendation #3:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-629, and 10-4-720, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed and corrected its guidelines pertaining to providing proper notification of policy cancellation in order to ensure compliance with Colorado insurance law.

PERTINENT FACTUAL FINDINGS

CLAIMS PRACTICES

Issue D: Delay, in some cases, in the payment of PIP benefits.

Section 10-4-708 C.R.S., Prompt payment of direct benefits, provides, in part:

(1) Payment of benefits under the coverages enumerated in section 10-4-706(1)(b) to (1)(e) or alternatively, as applicable, section 10-4-706(2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after the insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation.

Additionally, Amended Regulation 5-2-8 [Amended and effective September 1, 2000], Timely Payment of Personal Injury Protection Benefits, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to §§10-1-109, 10-4-704, 10-4-708(1.3), and 10-3-1110(1), C.R.S.

Section 3. Rule

B. Prompt Payment of PIP Benefits

Section 10-4-708(1), C.R.S. provides that benefits under the coverages enumerated in §10-4-706, C.R.S. are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto PIP Claims Paid

Population	Sample Size	Number of Exceptions	Percentage to Sample
116	50	15	30%

An examination of fifty (50) PIP paid claim files, representing 43% of all PIP claim files paid by the Company during the examination period, showed fifteen (15) exceptions (30% of the sample) wherein the Company failed to pay at least one PIP medical bill in each file within the thirty (30) day statutory standard as required by Colorado insurance law.

Recommendation # 4:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-708, C.R.S., and Colorado Amended Regulation 5-2-8. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its claims handling of PIP benefit payments and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

Summary of Recommendations*AMEX Assurance Company*

<u>ISSUE</u>	<u>REC #</u>	<u>PAGE NUMBER</u>
Company Operations		
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